

REMARKS and ARGUMENTS

Claims 1-25 are pending in this application. Claim 23 has been amended to address an informality. No new subject matter has been added.

Claim Rejections - 35 U.S.C. § 102(e)

Claims 1, 2, 5-21, and 22 – 25 were rejected under 35 U.S.C. §102(e) as being anticipated by *Hayman*, et al. '546. Applicant respectfully traverses the rejection based upon *Hayman*, et al. '546, wherein the examiner relied upon Fig. 1 of *Hayman* to show that a second fluid path is shorter than a first fluid path.

Applicant argues that Fig. 1 of *Hayman* neither teaches nor discloses a second fluid path is shorter than a first fluid path. Per MPEP §2125, a drawing or picture can anticipate a claim if it clearly shows the structure which is claimed, but the picture must show all the claimed structural features and how they are put together. Furthermore, when a reference does not disclose the drawings are to scale, and is silent as to dimensions, arguments based upon measurement of the drawing features are of little value. See *Hockerson-Halbertstadt, Inc, v. Avia Group Int'l*, 222 F.3d 951, 956, 55 USPQ2d 1487, 1491 (Fed. Cir. 2000). Applicant respectfully argues that Fig. 1 of *Hayman* can not be relied upon to teach a second fluid path is shorter than a first fluid path because Fig. 1 is a functional block diagram illustrating a vehicle with an engine (See, Col. 3, lines 17-20), wherein components are likely placed based upon the convenience of the illustrator. Fig. 1 of *Hayman* neither teaches nor discloses an actual construction or implementation of the invention. Furthermore, the disclosure of *Hayman* teaches an engine connected to an exhaust manifold, which directs exhaust gas from the engine to a catalytic converter (Col. 3, lines 49 – 60). There is no reference to any dimensions of the exhaust manifold, pipe length or fluid path length. Therefore, applicant respectfully requests withdrawal of the objection to claim 1 based upon *Hayman*, et al. '546.

Claims 2 and 5-11 are ultimately dependent upon allowable claim 1. Therefore applicant respectfully asserts that claims 2 and 5-11 are patentably distinguishable from *Hayman*, et al. '546 for the same reasons as set forth with respect to claim 1.

Applicant respectfully argues that independent claims 12, 17, 23, and 24, and corresponding dependent claims 13-22 and 25 are allowable over *Hayman*, et al. '546 for the same reasons as set forth with respect to claim 1.

Claim Rejections - 35 U.S.C. § 103(a)

Claims 3 and 4 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Hayman*, et al. '546 in view of design choice. It was stated by the examiner that position of the first and second group of cylinders would have been an obvious matter of design choice for one having ordinary skill in the art.

Claims 3 and 4 are ultimately dependent upon allowable claim 1. Therefore applicant respectfully asserts that claims 3 and 4 are patentably distinguishable from *Hayman*, et al. '546 for the same reasons as set forth with respect to claim 1.

Conclusion

For all of the above reasons, applicant respectfully asserts that claims 1- 25 are patentably distinguishable over the prior art cited thereagainst. Reconsideration and allowance is respectfully requested. A Notice of Allowance is earnestly solicited. If the Examiner believes that a telephone interview would be beneficial, please contact the undersigned at the number listed. Please charge any necessary fees, including any extension of time, or any other fee deficiencies to Delphi Technologies, Inc., Deposit Account No. 50-0831.

Respectfully submitted,



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